

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
DECEMBER 3, 2008**

**CALL TO ORDER** A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Gordon Cross, Frank DeKort, Marc Pitman, Mike Mower and Jim Heim and Randy Toavs. Gene Dziza and Rita Hall had excused absences. Dianna Broadie and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were 17 people in the audience.

**APPROVAL OF  
MINUTES** None.

**PUBLIC  
COMMENT** None.  
*(not related to  
agenda items)*

**PRELIMINARY  
PLAT/ASPEN  
SQUARE AMD.  
LOT 1  
(FPP 08-24)** A request by L & R Plaza, LLC for Preliminary Plat approval of the Amended Plat of Lot 1, Aspen Square, a two (2) lot commercial subdivision on approximately 3.08 acres. Lots in the subdivision are proposed to have public water and sewer systems. The property is located at 2593 US Highway 2 East, on the southeast corner of LaSalle Road and East Reserve Drive.

**STAFF REPORT** Dianna Broadie reviewed Staff Report FPP 08-24 for the Board.

**BOARD  
QUESTIONS** Cross asked about the need to eliminate two parking spaces before preliminary plat.

Broadie said if the deletion of the two parking spots is not made before final plat and the lot sells; there is a possibility of the two parking spots remaining and impeding traffic.

**APPLICANT  
PRESENTATION** Narda Wilson, 184 Midway Drive, Columbia Falls, representing property owner Rick Walker, states improvements have been made on the lot with new landscaping, and upgrades to the existing building and storm water system. The property owner wants to separate the remainder of lot 1 (1B) so it can be conveyed separately. She explained the position of accesses to the lots. She brought up concerns she felt about the comments by staff on parking. She passed around her copy of the executive summary of the Kalispell Area Transportation Plan for 2006 and then explained the summary. She talked about East Reserve being a county road, so she is confused as to why this plan is being referenced in the findings. She spoke about the site plan and passed out copies. She felt the plan is completely functional for parking. She

referenced drawings and discussed them at length to the board. She felt the lots were completely developable with adequate parking as presented originally. She wants clarification on the conditions for access to 1B's parking lot. She does not believe there will be additional impacts for subdividing the lot since development is already allowed. She also does not think an additional right of way is necessary.

Rick Walker, 449 Addison Square, on behalf of L & R Plaza LLC, wanted to clarify the issue of the drain run off problem. He has rebuilt the parking lot, storm drain system, curbing and the landscaping to keep the water which drains off Town Pump's property from being an issue. He is not comfortable leaving a public document which states his property is the problem when in fact it is Town Pump and they are trying to solve the issues and enhance public safety. He commented on the right of way issue. He stated the proposition of the donation of a 10 foot right of way to the county would be \$50,000 plus the cost of tearing up landscaping, storm drain system and utilities. The total cost would be around \$90,000 for the 10 foot strip. If the county would like to approach him about purchasing the 10 foot strip, he would be open to negotiations. He mentioned the fact he could put another building on the property without subdividing. He is concerned the property will become too expensive given the current market and wants the freedom to break the property into smaller parcels so if he did need to liquidate part of the property, or have financing through multiple lenders it would be a possibility. He feels the subdivision will not impact the intersection and he should not be required to singlehandedly solve the problem of an already busy intersection.

**BOARD  
QUESTIONS**

Cross asked if the drainage problem still exists.

Walker said yes. The water comes from Town Pump, but he is trying to solve the problem. He referenced a map and showed where he has eliminated access which was impeding traffic. He feels he has done his part by installing the storm water system, and controlling the access voluntarily. He asked the board to not ask him to contribute more. He is not creating an increase of use over what already exists.

**AGENCY  
COMMENTS**

None.

**PUBLIC  
COMMENT**

None.

**APPLICANT  
REBUTTAL**

None.

**STAFF  
REBUTTAL**

Broadie provided clarification on access to the proposed subdivided lot. She stated the applicant's site plan supported her recommendations for access to the additional area. Since the lot is narrow, she

reiterated the need for one additional access in another location.

Staff and the board discussed possible changes in wording concerning access and parking.

**MAIN MOTION  
TO ADOPT F.O.F.**

AuClaire made a motion seconded by Heim to adopt staff report FPP 08-24 as findings-of-fact.

**BOARD  
DISCUSSION**

Heim suggested a change in wording for the condition #8

**SUBSIDIARY  
MOTION TO  
(AMEND F.O.F. #8)**

It was moved by Heim and seconded by Toavs to change Finding #8 to read *The proposed subdivision provides a reasonable level of public safety because it has sited where there are a few hazards and has availability of good public services. There is some safety issues associated with the intersection of Highway 2 and ~~East Evergreen Drive~~ East Reserve Drive that can be mitigated by dedication of a 10 foot strip to the north for the purposes of future widening. A through access to lot 1A from 1B would provide better emergency vehicle access.*

**ROLL CALL TO  
ADOPT  
(AMENDED F.O.F.  
#8)**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION**

Cross asked if there were safety issues turning off LaSalle

Broadie said there was a safety issue with timeliness in turning off LaSalle.

The board discussed at length the safety issues with access from LaSalle Road and the intersection of East Reserve and LaSalle.

The board discussed which roads qualified as county roads.

Cross asked for clarification on the parking issue.

Broadie stated the applicant's plan for parking and her recommendations were basically the same.

The board discussed the pros and cons of splitting the parking area at length.

Heim stated since the board did not know what the new lot would be used for, they could not determine parking.

Cross asked Harris how much credence the board should give a study referenced by the city of Kalispell, since there was no plan for Flathead County.

Harris stated the county's plan was not finished yet. He said he would not discount the city's plan.

The board discussed if the easement condition needed to be eliminated.

**ROLL CALL TO  
ADOPT F. O. F.  
AS AMENDED**

On a roll call vote the motion passed unanimously

**MOTION TO  
RECOMMEND  
APPROVAL**

Heim made a motion seconded by AuClaire to adopt Staff Report FPP 08-24 and recommend approval to the Board of County Commissioners.

**SUBSIDIARY  
MOTION TO  
(DELETE  
CONDITION #17)**

Toavs motioned and AuClaire seconded the motion to delete condition #17.

**ROLL CALL  
(DELETE  
CONDITION #17)**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION**

Cross asked Broadie if she worked on clarification on condition #16 concerning access to lot 1B.

Broadie read her clarifications to the board.

The board discussed access for the subdivided lot.

**SUBSIDIARY  
MOTION TO  
(AMEND  
CONDITION #16)**

It was moved by Toavs and seconded by AuClaire to amend condition 16 to read *The applicant shall provide an ~~access~~ shared access and maintenance agreement that assures that Lot 1B has access through the same access sites as Lot 1AB. This agreement shall also ensure that Lot 1B has additional access points from ~~through the southwest corner of from~~ the current parking area of Lot 1A that would meet width requirements of parking aisles in the zoning code if needed to provide parking and loading requirements.*

**ROLL CALL  
(AMEND  
CONDITION #16)**

On a roll call vote the motion passed unanimously.

**SUBSIDIARY  
MOTION TO  
(DELETE  
CONDITON #18)**

Moved by Toavs and seconded by AuClaire to delete Condition #18

**ROLL CALL**  
**(DELETE**  
**CONDITION #18)**

On a roll call vote the motion passed unanimously.

**BOARD**  
**DISCUSSION**

Harris questioned if the board approves findings-of-fact, do they also approve variances.

Cross said yes.

Mower brought up the point of further research into the water issue and suggested staff research more before the issue is presented to the commissioners.

**ROLL CALL TO**  
**APPROVE FPP**  
**08-22 AS**  
**AMENDED**

On a roll call vote the motion passed unanimously.

**PRELIMINARY**  
**PLATT/**  
**HASKELL'S PASS**  
**(FPP 08-19)**

A request by Peter Strelinger, on behalf of Township 110 Land Company, for Preliminary Plat approval of Haskell's Pass Subdivision, a seventy (70) lot single-family residential subdivision on 798.1 acres. Lots in the subdivision are proposed to have individual water and individual/multi-user septic systems. The property is located on the north end of Little Bitterroot Lake, off Pleasant Valley Road.

**STAFF REPORT**

Dianna Broadie reviewed FPP 08-19 for the board.

**BOARD**  
**QUESTIONS**

Cross asked if all the conditions had been seen by everyone involved or who had an interest in the outcome of the decision.

Broadie said yes, they had.

Cross asked the current status of fire suppression.

Broadie said Plum Creek and the Marion Volunteer Fire Department are still in discussions.

Toavs asked if the board had seen this property before.

Broadie said yes, it went through full review and then a court case was filed. At that time, the applicant asked to withdraw the application. This application is slightly different from the original.

DeKort asked if they had a vote of the advisory committee.

Broadie said it was unanimous for approval with one person abstaining because he works for Plum Creek.

**APPLICANT  
PRESENTATION**

Peter Strelinger, director of Plum Creek, spoke of the history of the project and what brings it before the board again. He discussed the differences between the last application and the current one. He stated all staff conditions were acceptable with Plum Creek. He clarified Plum Creek never intended for this subdivision to be a gated community.

**BOARD  
QUESTIONS**

Cross asked for clarification on sewage, and open space areas.

Scott Hagel, Council for the Applicant, states the cumulative land of the lots meet the requirement for open space, and density requirements. He also commented the lots have a level two treatment of sewage.

Mower asked why there were different sizes of lots.

Strelinger stated it was a matter of marketing with a variety of lot sizes and diversity of price.

Cross asked for clarification on the setbacks from Herrig Creek.

Strelinger said it was 150 feet on both sides of the creek which means 300 feet total. An additional buffer is at least 100 ft from wetlands and then made contiguous.

Dave DeGrandpre stated the applicant asked the sufficiency determining be held until they made all parties agreeable with the end result. The easements are to protect water quality and have strict limitations. They have offered covenant restrictions. They have offered to the county to have those restrictions on the plat for additional enforcement mechanisms. Their goal is to address the concerns of neighboring land owners by giving the county the opportunity to enforce some of the items which are normally enforced by a homeowners association. Vegetation is to remain intact in the wetland easements with the ability to control noxious weeds.

Mower asked if the applicant was ok with the recommended conditions.

DeGrandpre said yes, they were.

**AGENCY  
COMMENTS**

Lincoln Chute, Flathead County Fire Service Area, said he approved annexation of the subdivision into the Marion fire district. He had concerns about wild land and structure fire protection. The other concern, in his opinion, is the 100 feet around houses for fuel reduction. He would like the distance to be enlarged to include 300 feet.

Jim Watson, Flathead County Parks Board, spoke about researching how much of the dedicated lot on the Great Northern Railroad Pit is owned by the county. It is not an easement. He stated the preference of the county to keep the options open for future development of the property for the rails to trails project.

Heim asked if the property was in the no build zone.

Watson said yes.

Pitman asked what doors would close by accepting the application as it is.

Watson said none. They would like the possibilities to be open in the future.

Cross asked where they would create the parking for the trailhead.

Watson clarified where they would create the parking area.

Larry Brawler, Chairman of the Marion Fire and Rescue Department, stated the applicant is still in negotiations with the fire department.

Jeff Ellingson, Little Bitterroot Lake Advisory Board, talked about several conditions he wanted to amend. He wanted to thank Plum Creek for their willingness to work with the concerned groups to come to an acceptable outcome. He discussed the use of trails and responsibility for the maintenance and possible compromises with Flathead County Parks Department.

The board held a brief discussion of what should be on the final plat and what should be put in place after final plat is approved.

**PUBLIC  
COMMENT**

Anna Marie Bailey, 838 Bitterroot, thanked Plum Creek for working with homeowners and the Little Bitterroot Lake Advisory Board.

Janet Stern, 1525 Bitterroot Lane, thanked Plum Creek for working with them. Conditions put buyers on notice at the time of sale that they have to adhere to certain standards. They can not be modified or treated as subsidiary as covenants can. She had a question about the open range point. If the fence comes down along Herrig Creek, she believed the owners would not want livestock in creek. She gave a brief history of the application and expressed concern about the impact of construction on Herrig Creek and Bitterroot Lake. She was concerned about water quality and wanted to require a new DEQ (Department of Environmental Quality) permit. She was also concerned about fire safety and what would happen if there was not an agreement between the Marion Fire Department and Plum Creek.

Lorraine Major, 545 Swan Hill Drive, has a family cabin and she was concerned about the impact on the environment. She was impressed with the amount of collaboration on the project but is concerned about the enforcement of conditions after Plum Creek is no longer involved in the Haskell's Pass development. She wanted a condition added to help with absentee homeowners and their septic systems and was worried there would not be an adequate aquifer for all the new development. She wondered why there had been no discussion of a community well then thanked the board for their time.

Janet Thon, 40 West View Drive, who represented herself and John Connager, supported Haskell's Pass, and stated Plum Creek had addressed their concerns and are good stewards of the land.

Mayre Flowers, Citizens for a Better Flathead, thanked Plum Creek for working with homeowners. She had similar concerns as the other public speakers had. She handed out maps to the board. She felt the subdivision does not comply with the neighborhood plan, and was concern about the wildlife and safety of the residents from fire. She read into record part of a letter previously submitted from Fish Wildlife and Parks for the previous submittal of the subdivision. She also spoke of her concern about ridgeline development. She talked about the concern for additional piping needed to transfer water and services from approved building sites to the wells and septic on some of the lots. She was also concerned about switchbacks required to access homes which are on steep slopes. She supported the conditions the advisory board was recommending with the few exceptions she mentioned.

## **APPLICANT REBUTTAL**

Carlo Arndt, PBS & J, 975 North Woods Drive, Whitefish, explained how level two septic systems operate and how many in western Montana are out of compliance. There are only two. He discussed the procedures followed to determine the adequacy of the wells. The plan for the wells is only for primary residences. There is no way to know how many people will choose to build a guest house.

Dave DeGrandpre, 36708 Leon Road, Charlo, stated guest homes are considered conditional use for property which means each land owner will have to apply for a conditional use permit to build a guest home on the property.

The board and applicants discussed continuous use on a level two septic system and the ramifications for leaving the house vacant for six months at a time.

Toavs asked for clarification of depth on well drilling.

Strelinger, Plum Creek, 234 Williams Lane, Bigfork, addressed the questions about the northerly trail and public access to the trail. The

trail was never proposed to be open to public. It is not the applicant's intention to remove the fence on Herrig Creek. The owners who purchase the lots may wish to remove the fence and replace it with a wildlife friendly replacement. Guest houses are not considered additional houses; they are specifically a place for guests of lot owners to reside on a temporary basis. Plum Creek has no plans to develop any more land in the Marion area. He does not agree with being forced into a weaker bargaining position with the Marion fire district in negotiations for annexation. He stated an agreement was very close to being reached.

DeGrandpre spoke about designated building sites on certain lots and the fact they were designated in a specific area to minimize environmental impact. The rest of the lots have at least three suitable spots for building and are only recommendations. He stated houses on the ridge area are not going to be sky lined. They support the added conditions.

Hagel clarified prior DEQ approval does have to go through another approval by DEQ since the number of lots changed.

**STAFF  
REBUTTAL**

Broadie stated she would support parks as far as bike paths being on one side of Pleasant Valley Road and widened. She reiterated the guests houses do need to go through the conditional use permit process. There is a process for notification and a safety net in place for level two septic systems.

Harris said staff looked at zoning district compliance. The density does comply with the regulations. They also consulted with the County Attorney's office and they agreed the application did comply with the requirements of the zoning.

**MAIN MOTION  
TO ADOPT F.O.F.**

AuClaire made a motion seconded by DeKort to adopt staff report FPP 08-19 as findings-of-fact.

**BOARD  
DISCUSSION**

Cross asked Broadie if any of the changes in recommendations would relate to any of the findings and suggested she review the file while they carried on with their discussion. He thought even though Plum Creek agreed to pay for easement, he did not think they should have to, but it was their choice. He did not think it should be in the conditions they needed to pay for the easement. It is condition #18.

**SUBSIDIARY  
MOTION TO  
(DELETE  
FOF #23)**

It was motioned by Cross and seconded by Heim to delete finding #23.

**ROLL CALL**  
**(DELETE**  
**FOF #23)**

On a roll call vote the motion passed with Pitman abstaining.

**MOTION TO**  
**(AMEND**  
**F.O.F #10)**

It was motioned by AuClaire and seconded by DeKort to amend finding #10 to note that according to the Montana Historical Society a historic resource inventory had not been completed.

**BOARD**  
**DISCUSSION**

There was a discussion about what a Chinese culvert was. It was decided the culvert probably existed on County land.

**ROLL CALL**  
**(AMEND**  
**F.O.F #10)**

On a roll call vote the motion passed unanimously.

**BOARD**  
**DISCUSSION**

Broadie referenced the question by Cross earlier about if she felt if any of the changes in recommendations would relate to any of the findings. She brought up the differences in driveway standards and felt the portion of Haskell's Pass Road which provides access to lot 31 should be improved to rural county gravel standards which are 24 feet instead of 12 feet.

The board discussed the issue at length.

**SUBSIDIARY**  
**MOTION TO**  
**(AMEND**  
**F. O. F. #16)**

Cross made motion seconded by Pitman to amend Finding #16 to reflect that Haskell's Pass road must be improved to driveway standards.

**BOARD**  
**DISCUSSION**

None.

**ROLL CALL**  
**(AMEND**  
**F. O. F. #16)**

On a roll call vote the motion passed unanimously.

**ROLL CALL TO**  
**ADOPT F. O. F.**  
**AS AMENDED**

On a roll call vote the motion passed unanimously.

**MOTION TO**  
**RECOMMEND**  
**APPROVAL**

DeKort made a motion seconded by AuClaire to adopt Staff Report FPP 08-19 as amended and recommend approval to the Board of County Commissioners.

**BOARD**  
**DISCUSSION**

The board discussed whether or not to adopt The Little Bitterroot Lake conditions as conditions to the staff report.

The board discussed at length a 30 foot easement for a walking trail.

**SUBSIDIARY  
MOTION TO  
ADOPT  
CONDITIONS  
CHANGED BY  
LBL LUAC**

DeKort made a motion seconded by AuClaire to replace certain conditions in the staff report with the set of conditions recommended by the Little Bitterroot Land Use Advisory Committee.

**ROLL CALL TO  
ADOPT  
CONDITIONS  
CHANGED BY  
LBL LUAC**

On a roll call vote the motion passed unanimously.

**SUBSIDIARY  
MOTION (AMEND  
CONDITION 20(m))**

It was moved by Toav and seconded by AuClaire to amend condition 20 item m. to reflect the lot owners had the option to fence out cattle if they so choose.

**ROLL CALL  
(AMEND  
CONDITION 20(m))**

On a roll call vote the motion passed unanimously.

**SUBSIDIARY  
MOTION TO  
(DELETE  
CONDITION #18)**

It was moved by Cross and seconded by Mower to delete Condition 18 regarding legal access.

**ROLL CALL  
(DELETE  
CONDITION #18)**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION**

The board held a small discussion on if the residents are to be informed of possible problems with local wildlife concerning trash.

**SUBSIDIARY  
MOTION TO  
(AMEND  
CONDITION 13(c))**

It was motioned by Toavs and seconded by DeKort to amend Condition #13, item c. to reflect that a central solid waste facility is proposed with this plat instead of individual pickup.

**ROLL CALL  
(AMEND  
CONDITION 13(c))**

On a roll call vote the motion passed unanimously.

**SUBSIDIARY  
MOTION TO  
(AMEND  
CONDITION 19)**

It was motioned by Cross and seconded by AuClaire to amend Condition 19, to require a 30 foot bike/pedestrian easement on one side as opposed to two separate easements on either side of Pleasant Valley Road.

**ROLL CALL  
(AMEND  
CONDITION 19)**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION**

AuClaire asked if she could condition the donation of \$100 to the Marion School.

Cross said he didn't think that was legal.

Harris concurred and stated there could be legal issues with conditioning the donation.

AuClaire withdrew the suggestion.

Cross asked if there were any issues with the wording on annexing the Haskell's Pass subdivision into the Marion Fire District.

Toavs brought up the fact it is in the conditions that if they do not annex into the Marion Fire District area then the county is responsible for responding.

DeKort asked what native growth easement meant on individual lots.

Strelinger replied it is an easement on a private lot with restrictions and is similar to conservation easements and will show on final plat drawings.

DeKort asked if the buffer was vegetative or a building buffer.

He received no clear answer.

**SUBSIDIARY  
MOTION TO  
(AMEND  
CONDITIONS 22  
AND 23)**

It was moved by DeKort and seconded by AuClaire and Toavs to amend Conditions 22 and 23 to indicate the buffer is both a vegetative and building setback buffer.

**ROLL CALL  
(AMEND  
CONDITIONS 22  
AND 23)**

On a roll call vote the motion passed unanimously.

**ROLL CALL  
TO RECOMMEND  
APPROVAL AS  
CONDITIONED**

On a roll call vote the motion passed unanimously.

**BOARD  
DISCUSSION**

Mower congratulated everyone involved in working so well together and making the board's job easier.

**COMMITTEE  
REPORTS**

Pitman reported on the meeting of the Natural Resources Committee.

Committee B has not met since the last meeting. They will be meeting tomorrow night.

**OLD BUSINESS**

AuClaire, Hall, DeKort and Mower have been reappointed. George Culpepper has been appointed to replace Gene Dziza.

Harris reminded the board of an orientation meeting 12/19/2008. He reported on changes to sub division regulations. He gave his thanks to the board for all the work did on the regulations. The staff will soon send out the new regulations to board members.

**NEW BUSINESS**

Harris asked if the board is getting their meeting schedules.

They affirmed they have been receiving them.

The board discussed lawsuits status at length.

Cross asked the status of the Whitefish Area zoning district.

**ADJOURNMENT**

The meeting was adjourned at approximately 10:30pm on a motion by Pitman and seconded by Heim. The next meeting will be held at 6:00 p.m. on December 10, 2008.

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Gordon Cross, President

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Donna Valade, Recording Secretary

*APPROVED AS SUBMITTED/CORRECTED: 1/21/09*